

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DOCTOR'S ASSOCIATES INC.,

Plaintiff,

- against -

LOUIS AGNELLO,  
COUSIN VINNY'S WAY  
and MY WAY SUBS,

Defendants.

Case No. 08 Civ. 5452  
(WHP / FM)

**DECLARATION OF MARK S.  
KAUFMAN IN SUPPORT OF  
APPLICATION FOR  
ATTORNEYS' FEES  
AND COSTS**

MARK S. KAUFMAN, an attorney duly admitted to practice law before this Court, declares as follows:

1. I am a partner of Kaufman & Kahn, LLP, attorneys for plaintiff Doctor's Associates Inc. ("DAI")
2. On June 30, 2008, the Court granted DAI's motion for preliminary injunction, to enjoin defendants Louis Agnello, Cousin Vinny's Way and My Way Subs from using and/or displaying the federally registered SUBWAY Marks, the \$5 FOOTLONG mark, and signs and menus, in the operation of their sandwich and nude strip club business. The Court also granted DAI's request for attorneys' fees and costs, and I submit this declaration in support of DAI's application therefor.
3. I am a graduate of Amherst College with a B.A. (with honors) in English literature, and earned my law degree from Columbia Law School in 1989. I was admitted to the New York State Bar, the Southern District of New York and the Eastern District of New York in February 1990, and have been admitted to the federal District Court of New Jersey, District

Court of Colorado, and Third Circuit Court of Appeals. Since 1995, my practice has focused on commercial litigation, copyright and trademark matters, and business contracts.

4. My partner, Robert Kahn, is a graduate of Clark University, with a B.S. in Economics. He earned his law degree from New York Law School in 1991, and has an L.L.M. in Health Care Law from Loyola University in Chicago, Illinois. He is admitted to practice law in the states of New York and New Jersey and the U.S. District Courts for the Southern and Eastern Districts of New York. Mr. Kahn practice has focused on commercial litigation and landlord-tenant law.

5. I generally charge \$325.00 per hour, but for DAI, charge \$275.00 per hour. Mr. Kahn generally charges \$275.00 per hour.

6. In connection with the motion for preliminary injunction in this case, at the foregoing rate we incurred the following time and fees on behalf of the plaintiff, Doctor's Associates, Inc.:

DESCRIPTION	HOURS	AMOUNT
Research legal precedent and SUBWAY trademarks; review client's documents	6.5	
Drafting, reviewing, editing and revising declaration, memo of law, order to show cause, and conforming complaint to same.	19.0	
Prepare exhibits, summonses, Rule 7.1 statement, cover sheet, and finalize documents for service and filing with court	7.0	
Attendance at court to commence action, and obtain judge's approval of TRO on 6/17/08	2.0	

Prepare for and attend telephone conference with Court on 6/19/08	1.5
Prepare for and attend motion conference on 6/30/08	2.0
Communications with client re: factual history, strategy, approval and execution of court documents; with investigators; with ECF/ECM; with messengers and process servers; and with defendant Agnello	<u>2.8</u>
	40.8
	\$11,220

7. We also incurred the following disbursements:

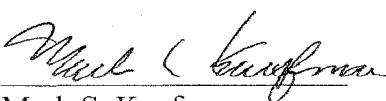
<b>DISBURSEMENTS</b>	<b><u>AMOUNT</u></b>
Photocopy Expense	193.65
Overnight Courier Expense	7.09
Index Number Fee	350.00
Investigation Costs	650.03
Photocopy Expense	29.10
Postage Expense	9.02
Lexis/Westlaw	<u>102.00</u>
Totals:	\$1,340.89

8. As a result of the foregoing, we have incurred a total of \$12,560.89 in attorneys' fees and costs in connection with bringing the motion for preliminary injunction.

9. I declare under penalties of perjury under the laws of the United States of America that the foregoing is true and correct.

**WHEREFORE**, plaintiff Doctor's Associate's Inc. respectfully requests that the Court grant an award of attorneys' fees and costs in the amount of \$12,560.89, and such other and further relief as the Court deems just and appropriate.

Dated: New York, New York  
July 1, 2008

  
Mark S. Kaufman